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[COMMITTEE PRINT]

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AIR POLLUTION

[STAFF WORKING PRINT NO. 1]

A BILL

To amend the Clean Air Act in order to extend the authorizations for such Act, to extend the provisions of title II relating to emission standards to vessels, aircraft, and certain additional vehicles, and for other purposes, and to provide for a study of noise and its effects.

* * * * *

"RESEARCH RELATING TO FUELS AND VEHICLES

"SEC. 104. (a) The Secretary shall give special emphasis to research and development into new and improved methods, having industrywide application, for the prevention and control of air pollution resulting from the combustion of fuels. In furtherance of such research and development he shall—

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“(1) conduct and accelerate research programs directed toward development of improved, low-cost techniques (A) for control of combustion byproducts of fuels, (B) for removal of potential atmospheric contaminants from fuels prior to combustion, (C) for control of emissions from the evaporation of fuels, (D) for improving the efficiencies of fuels combustion that result in decreased atmospheric emissions, and (E) for producing synthetic or new fuels which, when combusted, result in decreased atmospheric emissions;

“(2) provide for Federal grants to public or non-profit agencies, institutions, and organizations and to individuals, and contracts with public or private agencies, institutions, or persons, for payment of (A) part of the cost of acquiring, constructing, or otherwise securing for research and development purposes, new or improved devices or methods having industrywide application of preventing or controlling discharges into the air of various types of pollutants; (B) part of the cost of programs to develop low emission alternatives to the internal combustion engine, including but not limited to steam, electric, and fuel cells; and (C) carrying out the other provisions of this section, without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5) : *Provided*, That research or demonstration contracts awarded pursuant to this subsection (including contracts for construction) may be made

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in accordance with, and subject to the limitations provided with respect to research contracts of the military departments in, section 2353 of title 10, United States Code, except that the determination, approval, and certification required thereby shall be made by the Secretary: *Provided further*, That no grant may be made under this paragraph in excess of \$1,500,000;

“(3) determine, by laboratory and pilot plant testing, the results of air pollution research and studies in order to develop new or improved processes and plant designs to the point where they can be demonstrated on a large and practical scale;

“(4) construct, operate, and maintain, or assist in meeting the cost of the construction, operation, and maintenance of new or improved demonstration plants or processes which have promise of accomplishing the purposes of this Act;

“(5) study new or improved methods for the recovery and marketing of commercially valuable by-products resulting from the removal of pollutants.

“(b) In carrying out the provisions of this section, the Secretary may—

“(1) conduct and accelerate research and development of low-cost instrumentation techniques to facilitate determination of quantity and quality of air pollutant emissions, including, but not limited to, automotive emissions;

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“(2) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories;

“(3) establish and operate necessary facilities and test sites at which to carry on the research, testing, development, and programing necessary to effectuate the purposes of this section;

“(4) acquire secret processes, technical data, inventions, patent applications, patents, licenses, and an interest in lands, plants, and facilities, and other property or rights by purchase, license, lease, or donation; and

“(5) cause on-site inspections to be made of promising domestic and foreign projects, and cooperate and participate in their development in instances in which the purposes of the Act will be served thereby.

“(c) In carrying out the provisions of this section the Secretary shall establish a research and development advisory committee in accordance with the provisions of section 110 (d) of this Act.

“(d) For the purposes of this section there are authorized to be appropriated for the fiscal year ending June 30, 1968, \$35,000,000, and for the fiscal year ending June 30, 1969, \$90,000,000, for the fiscal year ending June 30, 1970, \$45,000,000, for the fiscal year ending June 30, 1971, \$125,000,000, for the fiscal year ending June 30, 1972, \$150,000,000, and for the fiscal year ending June 30, 1973, \$175,000,000. Amounts appropriated pursuant to this subsection shall remain available until expended.

(Section 105—No Change)

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"RESEARCH RELATING TO AIR POLLUTION EFFECTS

"SEC. 106. (a) The Secretary shall give special emphasis to research on the cause-and-effect relationships between exposure to atmospheric contaminants, singly or in combination, and effects on public health and welfare under environmental conditions. Such research shall be applicable to the development and refinement of air quality criteria which reflect both the short-term and long-term effects of exposure to atmospheric contaminants. In the furtherance of such research and development he shall—

"(1) conduct an accelerated research program directed toward improved knowledge on the contribution of air contaminants to the etiology of the disease;

"(2) conduct an accelerated research program directed toward improved knowledge of the effects of atmospheric contaminants on the environment, including animals and vegetation;

"(3) determine the contribution of age, ethnic, social, occupational, smoking, urbanization, and environmental factors, such as temperature, moisture, to the etiology of chronic diseases;

"(4) determine the contribution of air pollution to job absenteeism and accidents;

"(5) determine the physiological, toxicological, and biochemical effects of exposure to atmospheric contaminants and their public health significance;

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“(3) determine the additive and synergistic effects of exposure to atmospheric contaminants, including the role of particulates in enhancing the effect of other atmospheric contaminants;

“(7) determine the effects of storage and accumulation of organic and inorganic contaminants and their metabolites in human organs and tissues and the environment; and

“(8) develop a model for the prediction of the public health and welfare effects of exposure to mixtures of atmospheric contaminants.

“(b) In carrying out the provisions of this section the Secretary shall—

“(1) conduct retrospective and prospective epidemiological studies of mortality and morbidity;

“(2) conduct clinical and laboratory studies on the immunologic, toxicological, biochemical, physiological, carcinogenic, teratogenic, and mutagenic effects of atmospheric contaminants;

“(3) utilize, on a reimbursable basis, the facilities of existing Federal scientific laboratories; and

“(4) provide for Federal grants to public or non-profit agencies, institutions, and organizations and to individuals, and contracts with public or private agencies, institutions, or persons, for payment of research and investigations to carry out the purposes of this section.

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“(c) The Secretary shall submit to the Congress, no later than two years after the effective date of this section, a comprehensive report on the modernization of vital statistics data and reporting on the causes of death and the distribution of diseases to provide the requisite information for research investigators and public health and welfare administrators to evaluate the nature and complexity of health problems and the creation of new problems associated with changes in the environment and the corresponding increase in population, industrialization, urbanization and the socio-economic development of society.

“(d) In carrying out the provisions of this section, the Secretary shall establish a Research Advisory Committee in accordance with the provisions of section 110 (d) of this Act.

“(e) For the purposes of this section there are authorized to be appropriated such sums as may be necessary which shall remain available until expended.

“SEC. 107. (a) For the purpose of establishing ambient air quality standards pursuant to section ———, and for administrative and other purposes, the Secretary, after consultation with appropriate State and local authorities shall, within ninety days after enactment of this Act, designate any major metropolitan State and interstate air quality control regions based on jurisdictional boundaries, urban-industrial concentrations, and other factors necessary to provide adequate implementation of air quality standards. The Sec-

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retary shall immediately notify the Governor or Governors of the affected State or States of such designation. Such major State and interstate regions shall take precedence over any region designated pursuant to paragraph (2).

(2) Unless any State shall, after public hearings and within ninety days after the effective date of this paragraph, designate one or more air quality control regions within such State which shall include all areas of the State not included in such regions designated under paragraph (1) of this subsection, the remaining area of such State shall be designated an air quality control region for the purposes of this Act. The State shall immediately notify the Secretary of any such designations. If the State fails to make such designations within the time prescribed or if the Secretary disapproves any State designations, the Secretary shall promptly make such designations and notify the Governor of the State thereof. Such designations may be revised from time to time thereafter as necessary to protect the public health and welfare.

“(b) (1) The Secretary shall, after consultation with the Governors of the affected States, establish interstate air quality control commissions for the purpose of adopting and improving standards of air quality and plans for implementation thereof.

“(2) Such Commission shall consist of the Secretary or his designee who shall serve as Chairman, and a member to represent each State and major political subdivisions

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who shall be employees of the Federal Government and compensated at a rate to be determined by the Secretary.

“(3) The Secretary shall, within available funds, provide such staff for such Commission as may be necessary to enable it to carry out its functions effectively, and shall pay the other expenses of the Commission; and may also accept for the use by such Commission, funds, property, or services contributed by the State involved or political subdivisions thereof.

“SEC. 108. (a) (1) The Secretary shall, after consultation with appropriate advisory committees and Federal departments and agencies, within ninety days after enactment of this Act publish in the Federal Register, a list of pollutants for which criteria are planned or anticipated and shall, within eighteen months after enactment of this Act, develop and issue to the States such criteria of air quality requisite for the protection of the public health and welfare. Such issuance shall be announced in the Federal Register and copies shall be made available to the general public.

“(2) Such criteria shall accurately reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on health and welfare which may be expected from the presence of an air pollution agent, or combination of agents in the ambient air, in varying quantities.

“(3) Such criteria shall include those variable factors which of themselves or in combination with other factors

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may alter the effects on public health and welfare of any subject or combination of agents, including, but not limited to, atmospheric conditions, and the types of air pollution agent or agents which, when present in the atmosphere, may interact with such subject agent or agents, to produce an adverse effect on public health and welfare.

“(4) Such criteria shall also include a recommended ambient air quality standard which will be required to protect public health and welfare from any known or anticipated effects and shall indicate a deadline for achievement of such standard throughout the United States.

“(b) (1) Within thirty days after enactment of this Act the Secretary shall publish in the Federal Register, proposed national ambient air quality standards for any pollutant or combination of pollutants for which criteria have been issued pursuant to the Clean Air Act as amended and shall, after a reasonable time for comment, but within sixty days, promulgate such standards of air quality for such pollutants which standards shall be adequate to protect the public from any identifiable health effects of such pollutants.

“(2) The Secretary shall, with respect to additional pollutants for which criteria are issued subsequent to enactment of this Act, issue such standards in accordance with the provisions of paragraph (1).

“(3) Simultaneously with the publication of proposed national ambient air quality standards pursuant to paragraphs (1) and (2) the Secretary shall publish a secondary national

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air quality standard for each such pollutant or combination of pollutants and within sixty days, and after an opportunity for comment, promulgate such secondary national air quality standard which shall include a time specified for achievement of such secondary standard.

“(4) Nothing in this title shall prevent a State, political subdivision, intermunicipal or interstate agency from adopting standards and plans to implement an air quality program which will achieve a higher level of ambient air quality than approved by the Secretary.

“SEC. 109. (a) (1) The Secretary shall, after consultation with appropriate advisory committees and Federal departments and agencies, issue to the States and appropriate air pollution control agencies information on those recommended pollution control techniques the application of which is necessary to achieve levels of air quality set forth in criteria issued pursuant to this Act, which information shall include technical data relating to the technology and costs of emission control. Such recommendations shall include such data as are available on the latest available technology and feasibility of alternative methods of prevention and control of air contamination including cost-effectiveness analyses. Such information shall include data on alternative fuels, processes, and operating methods which will result in significant reduction of emissions. Such issuance shall be announced in the Federal Register and copies shall be made available to the general public.

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“(2) The Secretary shall from time to time, revise and reissue material issued pursuant to this section in accordance with procedures established in such subsection.

“(b) (1) Upon promulgation of a national ambient air quality standard for any pollutant or combination of pollutants each State, or interstate commission established pursuant to section 106 shall adopt after public hearings and submit to the Secretary within nine months a plan which shall include compliance schedules and emission requirements necessary for the implementation, maintenance, and enforcement of such national standards of air quality adopted or any such State standard more restrictive than the national standard except that no such plan shall provide in excess of three years for implementation of the national standard; and if the Secretary determines that—

“(A) such plan includes a timetable for implementation of the secondary national standard in a period not in excess of the deadline established by the Secretary;

“(B) such State standards are consistent with the air quality criteria and recommended control techniques issued pursuant to paragraph (1) ;

“(C) such plan assures that such standards of air quality will be achieved within a reasonable time ;

“(D) such plan includes emission requirements necessary to implement such standards of air quality;

“(E) such plan includes a procedure to assure that

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proposed new sources of emissions will not cause violation of such standards;

“(F) a means of enforcement by State action, including authority comparable to that in subsection (k) of this section, is provided; and

“(G) any such State standards and plan are consistent with the purposes of this Act and this subsection;

“(II) such plan includes as appropriate land use controls necessary to implement such standards of air quality;

“(I) such State conducted public hearings to consider adoption of standards more restrictive than the national ambient air quality standards,

such standards and plan or revisions thereof shall be the air quality standards applicable to such region or portions thereof.

“NEW SOURCE PERFORMANCE STANDARDS

“SEC. 110. (a) For the purpose of this section, the term—

“(1) ‘new source’ means those industrial facilities of national importance, the construction of which is initiated after date of enactment,

“(2) ‘industrial facilities of national importance’ means fossil-fueled electric generating plants, iron and steel mills, primary metals plants, cement mills, petroleum refineries, kraft pulp mills, cotton ginning; and such other industries as the Secretary, after publication

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and public hearings, determines to be stationary sources of air emissions over broad areas of the Nation,

“(3) ‘owner or operator’ means any person engaged in the operation of a new source, and

“(4) ‘person’ means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel.

“(b) (1) Within ninety days after the enactment of this section, the Secretary, after giving appropriate consideration to technology, shall promulgate Federal standards of performance for new stationary sources of air emissions (hereinafter referred to as ‘new sources’) which shall be designed to prevent the discharge of pollutants or combinations of pollutants into the air of the United States. The Secretary shall promulgate regulations, which are consistent with the standards issued under this subsection, to govern the design, construction, installation, and operation of any new source.

“(c) (1) Initial standards and regulations under this section shall become effective for new sources eighteen months after promulgation; but not earlier than December 31, 1971. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified.

“(2) The Secretary may distinguish among classes, types, and sizes of new sources for the purpose of standards and regulations.

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“(d) The provisions of this section and the standards and regulations promulgated thereunder shall apply to new sources owned and operated by the United States unless the President determines that compliance would not be in the paramount interest of the United States.

“(e) Upon application of any owner or operator, the Secretary shall certify compliance with standards and regulations for any source if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary shall perform such tests or require such testing of emissions in accordance with procedures set forth by the Secretary as to standards of performance and for such other purposes as may be appropriate. If the Secretary determines that the performance is satisfactory from the standpoint of the procedures set forth and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the new source.

“(f) Every owner or operator of a new source shall establish and maintain such records, make such reports, and provide such informations as the Secretary may reasonably require to enable him to determine whether such new sources have acted or are acting in compliance with this section and regulations thereunder and shall, upon request of an officer or employee duly designated by the Secretary permit such officer or employee at reasonable times to have access to and copy such records. All information reported to, or otherwise obtained by the Secretary or his representatives pursuant to

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this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such information may be disclosed to other officers or employees concerned with carrying out this section.

“(g) After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

“(1) for the owner or operator of any new source subject to such standards and regulations to operate such new source in violation of such standards or regulations, or such certification received pursuant to subsection ———

“(2) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section.

“(h) The district courts of the United States shall have jurisdiction to restrain violators of subsection (g) (1) and (2) of this section. Actions to restrain such violators shall be brought by, and in, the name of the United States. In any such action, subpoenas for witnesses who are required to attend a district court in any district may run into any other district.

“(i) Any person who violates clause (1) or (2) of subsection (g) of this section shall be liable to a civil penalty of not more than \$5,000 for each violation. Each violation shall be a separate offense.

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“(j) The provisions of this section shall be enforced by the Secretary and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Secretary, other Federal agencies, or the States to carry out the provisions of this section.

“(k) Anyone authorized by the Secretary to enforce the provisions of this section may (1) enter and inspect any new source in the United States, and (2) execute any warrant or other process issued by an officer of competent jurisdiction.

“(l) In the case of Guam, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions.

NATIONAL EMISSION STANDARDS—HAZARDOUS

SUBSTANCES

“SEC. 111. (a) The Secretary shall, within one hundred and eighty days of date of enactment, promulgate emission requirements for the following substances: polynuclear organic particulate matter, asbestos, radioactive materials, chlorinated hydrocarbon pesticides, cadmium, arsenic, manganese, beryllium chromium, nickel, lead, biological aerosols, and chlorine-hydrochloric acid. The Secretary shall set such

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emission requirements at zero except that he may set a higher level of emissions if he determines, after public hearings and upon a preponderance of the evidence, that a departure from a zero level of emissions of such substances will not jeopardize public health.

“(b) The Secretary may extend the provisions of this subsection to additional substances if, following publication of such proposal, and after public hearings, he determines such substance to be extremely hazardous to health.

“SEC. 112. (a) (1) Any violation of air quality standards implementation plans, emission requirements, or performance standards established pursuant to this Act is prohibited.

“(2) Whenever, on the basis of surveys, studies, investigation, or reports, an authorized representative of the Secretary finds a violation of such standards, he shall promptly issue an order in writing to the person causing or contributing to such a violation requiring such person to abate such violation as soon as possible and within a time to be prescribed therein, except that in the case of a violation of emission requirements, such time shall not exceed seventy-two hours. A copy of the order shall be sent to the State pollution control agency of the State or States in which the violation occurred. Subject to the provisions of this subsection, such order shall remain in effect until such representative determines by written notice to such person that such violation no longer exists. All such orders shall contain

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a detailed description of the conditions or practices which cause or constitute a violation. Nothing in this paragraph shall affect the authority of the Secretary pursuant to subsection (k) of this section.

“(3) (A) Any person issued an order pursuant to paragraph (2) of this subsection other than an order to abate a violation of an emission requirement may file with the Secretary an application within thirty days of receipt thereof for a public hearing to review such order. The applicant shall send a copy of such application to the State pollution control agency in which the violation occurred. Upon receipt of such application, the Secretary shall promptly hold a public hearing to enable such person and other interested persons to present information relating to the issuance and continuance of the order, or the time fixed therein, or both. The filing of an application for review under this paragraph shall not operate as a stay of the order. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code.

“(B) Immediately upon completion of the hearing, the Secretary shall make findings of fact giving due consideration to the technological feasibility of complying with such standards and he shall issue a written decision, incorporating therein an order vacating, affirming, modifying, or terminating the previous order complained of and his findings.

“(C) In connection with any hearing under this paragraph, the Secretary may sign and issue subpoenas for the

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attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

“(4) Any decision issued by the Secretary under paragraph (2) or (3) of this subsection shall be subject to judicial review by the United States court of appeals for the circuit in which the violation occurred, or the United States Court of Appeals for the District of Columbia Circuit, upon the filing in such court within thirty days from the date of such order or decision of a petition by any person aggrieved thereby praying that the order or decision be modified or set aside in whole or in part. Any order issued by the Secretary to abate a violation of an emission requirement shall be final and shall be in force until and unless the court determines that the interests of the public are best served by staying such order. A copy of the petition

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shall forthwith be sent by registered or certified mail to the Secretary and the State air pollution control agency, and thereupon the Secretary shall certify and file in such court the record upon which the order or decision complained of was issued, as provided in section 2112 of title 28, United States Code. The court shall hear such petition on the record made before the Secretary. The findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may affirm, vacate, or modify any order or decision of the Secretary and, when appropriate, issue such process as may be necessary to abate such violation, or may remand the proceedings to the Secretary for such further actions as it may direct. The judgment of the court shall be subject to review only by the Supreme Court of the United States upon a writ of certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of a proceeding under this paragraph shall not, unless specifically ordered by the court, operate as a stay of the order or decision of the Secretary.

“(5) (A) The Secretary shall institute a civil action for relief, including a permanent or temporary injunction, restraining order, or any other appropriate order in the district court of the United States for the district in which a person subject to air quality standards established under this section is located or resides or is doing business, whenever such person (i) violates or fails or refuses to comply with any final

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order or decision issued under this subsection to enforce air quality standards established under this subsection or (ii) interferes with, hinders, or delays the Secretary or his authorized representative in carrying out his responsibilities under this section, or (iii) refuses to furnish any information, data or reports requested by the Secretary in furtherance of the provisions of this section; or (iv) refuses to permit access to, and copying of, such records as the Secretary determines necessary in carrying out the provisions of this section. Each court shall have jurisdiction to provide such relief as may be appropriate, except that such court shall have jurisdiction only with regard to the issue of relief being sought pursuant to this paragraph. Temporary restraining orders shall be issued in accordance with rule 5 of the Federal Rules of Civil Procedure, as amended, except that the time limit in such orders, when issued without notice, shall be seven days from the date of entry. In actions under this section, subject to the direction and control of the Attorney General, as provided in section 50 (b) of title 28 of the United States Code, attorneys appointed by the Secretary may appear for and represent him. In any action instituted under this section to enforce an order or decision issued by the Secretary after a public hearing in accordance with section 554 of title 5 of the United States Code, the findings of the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive.

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“(B) Any person who knowingly violates any air quality standards established under this subsection or who knowingly violates any plan for implementation or emission requirements included in such standards or who knowingly violates or fails or refuses to comply with any final order or decision issued under this section shall, upon conviction, be punished by a fine of not more than \$25,000 per day of violation, or by imprisonment for not more than one year, or by both, except that, if the conviction is for a violation committed after the first conviction of such person under this section, punishment shall be by a fine of not more than \$50,000 per day of violation, or by imprisonment for not more than five years, or by both.

“(C) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this title or any order or decision issued under this section shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than six months, or by both.

“(6) For the purpose of making any investigation under this subsection of any building, structure, or other facility subject to air quality standards established under this subsection, the Secretary or his authorized representative shall have a right of entry to, upon, or through such building, structure, or facility. Whenever any person is required by a final order issued under this subsection to abate any viola-

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tion of air quality standards established under this subsection, the Secretary shall, when appropriate, require such person to sample any emissions subject to abatement by such order in accordance with such methods, at such locations, at such intervals, and in such manner as the Secretary shall prescribe and report such samples to the Secretary as he may prescribe and such report shall be public.

“(7) (A) No person shall discharge or in any other way discriminate against or cause to be discharged or discriminated against any employee or any authorized representative of employees by reason of the fact that such employee or representative of any alleged violator has filed, instituted, or caused to be filed or instituted any proceeding under this Act, or has testified or is about to testify in any proceeding resulting from the administration or enforcement of the provisions of this Act.

“(B) Any employee or a representative of employees who believes that he has been discharged or otherwise discriminated against by any person in violation of subparagraph (A) of this paragraph may within thirty days after such violation occurs, apply to the Secretary for a review of such alleged discharge or discrimination. A copy of the application shall be sent to such person who shall be the respondent. Upon receipt of such application, the Secretary shall cause such investigation to be made as he deems appropriate. Such investigation shall provide an opportunity for a public hearing at the request of any party to enable the parties to

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present information relating to such violation. The parties shall be given written notice of the time and place of the hearing at least five days prior to the hearing. Any such hearing shall be of record and shall be subject to section 554 of title 5 of the United States Code. Upon receiving the report of such investigation, the Secretary shall make findings of fact. If he finds that such violation did occur, he shall issue a decision, incorporating an order therein, requiring the person committing such violation to take such affirmative action to abate the violation as the Secretary deems appropriate, including, but not limited to, the rehiring or reinstatement of the employee or representative of employees to his former position with compensation. If he finds that there was no such violation, he shall issue an order denying the application. Such order issued by the Secretary under this subparagraph shall be subject to judicial review in accordance with this subsection. Violations by any person of paragraph (1) of this subsection shall be subject to the provisions of paragraph (5) of this subsection.

“(C) Whenever an order is issued under this paragraph, at the request of the applicant, a sum equal to the aggregate amount of all costs and expenses (including the attorney’s fees) as determined by the Secretary to have been reasonably incurred by the applicant for, or in connection with, the institution and prosecution of such proceedings, shall be assessed against the person committing such violation.

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“(8) The district courts of the United States shall have original jurisdiction, regardless of the amount in controversy or the citizenship of the parties, of civil actions brought by one or more persons on behalf of themselves or on behalf of any other persons similarly situated within any air quality control region or portion thereof designated under section against any person including a governmental instrumentality or agency, for declaratory and equitable relief or any other appropriate order against any person, where there is an alleged violation of any applicable air quality standards, plan for implementation or emission requirements established pursuant to this section. Nothing in this subsection shall affect the rights of such persons as a class or as individuals under any other law to seek enforcement of such standards.”